

**AMENDMENTS TO THE CALIFORNIA RULES OF COURT
AND STANDARDS OF JUDICIAL ADMINISTRATION**

**Adopted by the Judicial Council
Effective December 1, 1996,¹ and January 1, 1997**

CALIFORNIA RULES OF COURT

Rule 14. Additional briefs

(a) * * *

(b) [Brief of amicus curiae in Supreme Court] An individual or entity desiring to support or oppose the granting of a petition for review or original writ in the Supreme Court shall lodge a letter in that court in lieu of a brief of amicus curiae. The letter shall conform to the requirements of rule 28(e) regarding incorporation of documents by reference and annexed material. The letter shall be accompanied by proof of service on each party to the action or proceeding. The court may, in its discretion, elect to consider the letter and may, in its discretion, cause the letter to be filed in the action or proceeding. The fact that a person lodged a letter on the question of granting the petition does not constitute leave for that person to file a brief amicus on the merits if the petition is granted; all persons seeking to file a brief amicus on the merits shall comply with the requirements of the next paragraph and briefs on the merits in the Supreme Court shall conform as nearly as possible to the requirements of rule 29.3(c).

A brief of amicus curiae in the Supreme Court on the merits of an action or proceeding may be filed on permission first obtained from the Chief Justice. To obtain permission the applicant shall file with the clerk of the Supreme Court a signed request, accompanied by the proposed brief, stating the nature of the applicant's interest and setting forth facts or questions of law that have not adequately been presented by the parties and their relevancy to the disposition of the case. The request and proposed brief

¹ Rule 935 is adopted effective December 1, 1996. Rule 921 is renumbered to rule 936 and amended effective December 1, 1996. Rules 901-920 and 922 are repealed effective December 1, 1996, except as to cases in which formal proceedings were instituted before March 1, 1995, or in which a notice of intended private admonishment was issued prior to December 1, 1996.

must be received by the court no later than 30 days after ~~the filing of the initial brief of the party whose position the amicus will support or, if in support of neither party, no later than 30 days after filing of the petitioner's or appellant's opening brief.~~ all briefs, other than supplemental briefs, that the parties are entitled to file pursuant to rule 29.3 either have been filed or can no longer be filed within the time limits prescribed by that rule. The Chief Justice may grant leave for later filing if the applicant presents specific and compelling reasons for the delay. Any answer to an amicus curiae brief shall be filed by the parties no later than 20 days after the filing of the amicus curiae brief. Before the amicus curiae brief or an answer is filed, it shall be served on all parties. If the brief is in support of the position of one of the parties, that fact shall be noted on the cover of the brief. [Amended effective Jan. 1, 1997; previously amended effective July 1, 1989 and July 1, 1995.]

(c)-(d) * * *

Rule 33. Contents of record on appeal from judgment or order on motion for new trial;
noncapital cases

(a) [Normal record] If the appeal is taken by the defendant from a judgment of conviction, or if the appeal is taken by the People from an order granting a motion for a new trial, the record on appeal, except as stated in this rule, shall include the following (which shall constitute the normal record):

(1) A clerk's transcript, containing copies of (a) the notice of appeal, any certificate of probable cause executed and filed by the court, and any request for additional record and any order made pursuant thereto; (b) the indictment, information, or accusation with any amendments; (c) any demurrer; (d) any motion for a new trial, with supporting and opposing memoranda and affidavits; (e) all minutes of the court relating to the action; (f) the verdict; (g) the judgment or order appealed from and any abstract of judgment--commitment; (h) all written instructions given or refused indicating on each instruction the party requesting it; (i) all written communications, formal or informal, between the court and the jury or any individual jurors; (j) any written opinion of the court; (k) any transcript of an electronic sound or sound-and-video recording that was provided to the jury or

tendered to the court under rule 203.5. If the appeal is by the defendant, the clerk's transcript shall also include copies of ~~(k)~~ (l) each written motion made by defendant and denied in whole or in part, with supporting and opposing memoranda and related affidavits, search warrants and returns, and the transcript of any preliminary examination or grand jury hearing related thereto; ~~(j)~~ (m) the report of the probation officer; ~~(m)~~ (n) copies of any certified records of a court or of the Department of Corrections that were introduced in evidence to prove a prior conviction or prior prison term. [Subdivision amended effective Jan. 1, 1997; previously amended effective Jan. 1, 1966, Jan. 1, 1968, Nov. 13, 1968, July 1, 1971, Jan. 1, 1976, July 1, 1976, Jan. 1, 1982, Jan. 1, 1984, Jan. 1, 1990, Jan. 1, 1992 and Jan. 1, 1993.]

(2) * * *

(3) * * *

(b) * * *

(c) * * *

(d) * * *

(e) * * *

Rule 39. Juvenile appeals

(a) * * *

(b) [Notice of appeal; time for filing] In the cases provided by law, an appeal from the juvenile court is taken by filing with the clerk of that court a written notice of appeal within 60 days after the rendition of the judgment or the making of the order or, in matters heard by a referee who is not sitting as a judge pro tem, within 60 days after the order of the referee becomes final under rule 1417(c). When an application for a judicial rehearing of an referee order by a referee not sitting as a judge pro tem is ~~made and~~ denied under rule 1418, the notice of appeal shall be filed within 60 days after service of the referee's order in accordance with rule 1416(b)(3), or within 30 days after the entry of the order denying the application, whichever time is greater. Notice of appeal may be filed on Judicial Council form Notice of Appeal–Juvenile (JV–800). When a notice of appeal is received, the clerk shall mail a notification of the filing of the notice of appeal to each

party other than the appellant, and all attorneys of record. In a juvenile dependency case, the clerk shall also mail a notification to any de facto parent, any court-appointed special advocate, and to the tribe of an Indian child. The clerk shall then proceed in accordance with rule 31. [Amended effective Jan. 1, 1997; adopted effective July 1, 1977; previously amended effective Jan. 1, 1991, and Jan. 1, 1993.]

(c)-(f) * * *

(g) [Confidential information--section 300 proceedings] All records, briefs, or other documents filed by the parties, and opinions or orders filed by the court, shall protect the anonymity of the parties. The court may limit or prohibit public admission to hearings. [Subdivision adopted effective Jan. 1, 1997.]

Rule 39.1A. Experimental statewide project on appeals from orders or judgments
terminating parental rights

(a)-(b) * * *

(c) [Notice of appeal; record on appeal] Immediately on the filing of the notice of appeal, the clerk shall mail a notification of the filing of the notice of appeal to each party other than the appellant, to all attorneys of record, to any de facto parent, any court-appointed special advocate, and to the tribe of an Indian child. The clerk shall then assemble the record on appeal by (1) notifying the court reporter by telephone and in writing to prepare a reporter's transcript and to deliver the transcript to the clerk no more than 20 days after the notice of appeal is filed, and (2) preparing the clerk's transcript under rule 35(a).

The record on appeal shall include all portions of a dependency case of which the court has taken judicial notice.

Immediately on completion of the transcripts, the clerk shall certify the record as correct, deliver it by the most expeditious means to the reviewing court, and transmit copies to the attorneys for appellant, respondent, the minor, and the appointed counsel administrator for the district appellate project, by any method as fast as the express mail service of the United States Postal Service.

The cover shall bear the conspicuous notation, "Appeal from order terminating parental rights under [Welfare and Institutions Code section 366.26] or [Civil Code section 232] or [Family Code section 7800]," with the appropriate code section number shown as illustrated in the bracketed phrases. [Amended effective Jan. 1, 1997.]

(d)-(h) * * *

(i) [Confidential information--section 300 proceedings] In appeals under this rule, the record on appeal and briefs may be inspected only by court personnel, the parties to the proceedings, their attorneys, and other persons designated by the court. All records, briefs, or other documents filed by the parties, and opinions or orders filed by the court, shall protect the anonymity of the parties. The court may limit or prohibit public admission to hearings. [Subdivision adopted effective Jan. 1, 1997.]

~~(j)~~ (j) [Expiration of this rule] This rule expires January 1, 1998. [Subdivision relettered effective Jan. 1, 1997; adopted effective Jan. 1, 1994; previously amended effective Jan. 1, 1995.]

Rule 39.1B. Special rule for orders setting a hearing under Welfare and Institutions
Code section 366.26

(a)-(e) * * *

(f) [Notice of intent to file writ petition and request for record; service; jurisdiction] To permit determination of the writ petition prior to the scheduled date for the hearing under section 366.26 of the Welfare and Institutions Code on the selection of the permanent plan, a notice of intent to file a writ petition and request for record shall be filed with the clerk of the juvenile court within 7 days of the date of the order setting a hearing under section 366.26, or if the order was made by a referee not sitting as a judge pro tem, within 7 days after the order of the referee becomes final under rule 1417 (c). The notice of intent to file a writ petition shall be signed by the party intending to file a writ petition, or if to be filed on behalf of the child, by the attorney of record for the child. Upon a finding of good cause, based on a declaration by the attorney of record, the appellate court may waive the requirement of the party's signature. The period for filing a notice of intent to file a writ petition and request for record shall be extended 5 days, if the

party received notice of the order setting the hearing under section 366.26 of the Welfare and Institutions Code only by mail. Judicial Council form Notice of Intent to File Writ Petition and Request for Record (JV-820) may be used. The notice of intent to file a writ petition shall include, if known, all dates of the hearing that resulted in the order setting the hearing under section 366.26 of the Welfare and Institutions Code. The clerk shall serve a copy of the notice of intent to file a writ petition on each party, including the child, parent, any legal guardian, and any person who has been declared a de facto parent and given standing to participate in the juvenile court proceedings, and on the probation officer or social worker, each counsel of record, present custodian of a dependent child, and any court-appointed child advocate, as prescribed by rule 1407. The clerk shall also serve, by first class mail or fax, on the clerk of the reviewing court, a copy of the notice of intent to file a writ petition and a proof of service list. Upon receipt of the notice of intent to file a writ petition, the clerk of the reviewing court shall lodge the notice, whereupon the reviewing court acquires jurisdiction of the writ proceedings. [Amended effective Jan. 1, 1997; previously amended effective July 1, 1995.]

(g)-(r) * * *

(s) [Confidential information--section 300 proceedings] In proceedings under this rule, the record and petition and responses may be inspected only by court personnel, the parties to the proceedings, their attorneys, and other persons designated by the court. All records, briefs, or other documents filed by the parties, and opinions or orders filed by the court, shall protect the anonymity of the parties. The court may limit or prohibit public admission to hearings. [Subdivision adopted effective Jan. 1, 1997.]

Rule 56. Original proceedings

(a)-(g) * * *

(h) [Time to file a responsive pleading under Code of Civil Procedure section 418.10] If a petition for review is filed in the Supreme Court after the Court of Appeal denies a writ of mandate, the time for filing a responsive pleading in the trial court under

Code of Civil Procedure section 418.10(c) is extended until 10 days after the Supreme Court files its order denying the petition. [Subdivision adopted effective Jan. 1, 1997.]

Rule 203.5. Electronic recordings offered in evidence--transcripts

Unless otherwise ordered by the trial judge, a party offering into evidence an electronic sound or sound-and-video recording shall tender to the court and to opposing parties a typewritten transcript of the electronic recording. The transcript shall be marked for identification. A duplicate of the transcript, as defined in Evidence Code section 260, shall be filed by the clerk and shall be part of the clerk's transcript in the event of an appeal. Any other recording transcript provided to the jury shall also be marked for identification, and a duplicate shall be filed by the clerk and made part of the clerk's transcript in the event of an appeal.

Unless otherwise ordered by the trial judge, the court reporter need not take down or transcribe an electronic recording that is admitted into evidence. [Amended effective Jan. 1, 1997; adopted effective July 1, 1988.]

Rule 204. Selection of presiding judge

Each court having three or more judges shall by secret ballot select a presiding judge based on administrative qualifications and interest for a term of not less than one year. The presiding judge may serve consecutive terms but shall be subject to removal by secret ballot by the judges of the court. In a court having two judges, the selection of the presiding judge shall conform to Government Code section ~~29508.5~~ 69508.5. A judge of a one-judge court is the presiding judge. [Amended effective Jan. 1, 1997; adopted effective Jan. 1, 1985.]

Rule 335. Format of discovery motions

(a) [Motion to compel] A motion to compel further responses to interrogatories, inspection demands, or admission requests and a motion to compel answers to questions propounded at a deposition or to compel production of documents or tangible things at a deposition shall be accompanied by a separate document which sets forth each

interrogatory, item or category of items, request, question, or document or tangible thing to which further response, answer, or production is requested, the response given, and the factual and legal reasons for compelling it. Material shall not be incorporated by reference, except that in the separate document the moving party may incorporate identical responses and factual and legal reasons previously stated in that document. No other statements or summaries shall be required as part of this motion. [Amended effective Jan. 1, 1997; previously amended effective July 1, 1987, and Jan. 1, 1992.]

(b) - (d) * * *

Rule 850. Uniform bail and penalty schedules--traffic, boating, fish and game, forestry, public utilities, parks and recreation, business licensing

The Judicial Council of California has established the policy of promulgating uniform bail and/or penalty schedules for certain offenses in order to achieve a standard of uniformity in the handling of these offenses.

In general, bail is used to ~~assure~~ ensure the presence of the defendant before the court. Pursuant to Vehicle Code sections 40512 and 13103, bail may also be forfeited and such forfeiture may be had without the necessity of any further court proceedings and treated as a conviction for specified Vehicle Code offenses. A penalty in the form of a monetary sum is a fine imposed as all or a portion of a sentence imposed.

To achieve substantial uniformity of bail and penalties throughout the state in traffic, boating, fish and game, forestry, public utilities, parks and recreation, and business licensing cases, the municipal and justice court judges, in performing their duty under section 1269(b) of the Penal Code to meet annually to revise and adopt, before the first day of January, a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions, ~~and~~ shall give consideration to the Uniform Bail and Penalty Schedules approved by the Judicial Council. The Uniform Bail and Penalty Schedule for infraction violations of the Vehicle Code shall be established by the Judicial Council in accordance with section 40310 of the Vehicle Code. Judges shall give consideration to requiring additional bail for aggravating or enhancing factors.

The judge who calls the annual meeting, pursuant to section 1269(b) of the Penal Code shall, as soon as practicable after the meeting, mail a copy of the schedule to the Judicial Council with a report stating how the revised schedule differs from the council's *uniform traffic bail and penalty schedule*, *uniform boating bail and penalty schedule*, *uniform fish and game bail and penalty schedule*, *uniform forestry bail and penalty schedule*, *uniform public utilities bail and penalty schedule*, *uniform parks and recreation bail and penalty schedule*, or *uniform business licensing bail and penalty schedule*.

The purpose of this uniform bail and penalty schedule is to:

(1) show the standard amount for bail, which for Vehicle Code offenses may also be the amount utilized for a bail forfeiture in lieu of further proceedings; and,

(2) serve as a guideline for the imposition of a fine as all or a portion of the penalty for a first conviction of a listed offense where a fine is used as all or a portion of the penalty for such offense. The amounts shown for the misdemeanors on the *boating*, *fish and game*, *forestry*, *public utilities*, *parks and recreation*, and *business licensing bail and penalty schedules* have been set with this dual purpose in mind.

Unless otherwise shown, the maximum penalties for the listed offenses are ~~6~~ six months in the county jail or a fine of \$1,000, or both. The penalty amounts are intended to be used to provide standard fine amounts for a first offense conviction of a violation shown where a fine is used as all or a portion of the sentence imposed. [Amended effective Jan. 1, 1997; previously amended effective Jan. 1, 1989, Jan. 1, 1990, Jan. 1, 1993, and Jan. 1, 1995.]

Note: Courts may obtain copies of the Uniform Bail and Penalty Schedules by contacting:

~~The Traffic Court Coordinator
Administrative Office of the Courts
801 K Street, Suite 1800
Sacramento, California 95814
Telephone (916) 327-4983
Fax (916) 327-4986~~

Court Operations Services
Administrative Office of the Courts
303 Second Street, South Tower
San Francisco, California 94107

Rule 851. Eligibility criteria for attending traffic violator school

(a) [Purpose] The purpose of this rule is to establish uniform statewide criteria for eligibility to attend traffic violator school as pretrial diversion under Vehicle Code sections 41501 and 42005.3.

(b) [Eligible offenses] Except as provided in subdivision (c), a defendant with a valid driver's license shall be eligible to attend traffic violator school as pretrial diversion for any infraction under divisions 11 and 12 (rules of the road and equipment violations) of the Vehicle Code if the violation is reportable to the Department of Motor Vehicles.

(c) [Ineligible offenses] A defendant charged with any of the following infractions shall not be eligible to attend traffic violator school as pretrial diversion:

(1) A violation that carries a negligent operator point count of more than one point under Vehicle Code section 12810;

(2) A violation that occurs within 18 months after the date of a previous violation and the defendant either attended or elected to attend a traffic violator school for the previous violation (Veh. Code, § 1808.7);

(3) A violation of Vehicle Code section 22406.5 (tank vehicles);

(4) A violation related to alcohol use or possession or drug use or possession;

(5) A violation on which the defendant failed to appear under Vehicle Code section 40508(a) unless the failure-to-appear charge has been adjudicated and any fine imposed has been paid;

(6) A violation on which the defendant has failed to appear under Penal Code section 1214.1 unless the civil monetary assessment has been paid.

(d) [Court's discretionary use] Nothing in this rule shall prohibit the court in its discretion from using attendance at a traffic violator school for sentencing or other purposes. [Adopted effective Jan. 1, 1997.]

Rule 935. Review of determinations by Commission on Judicial Performance.

(a) A petition to the Supreme Court by a judge or former judge to review a determination by the Commission on Judicial Performance to retire, remove, censure, admonish, or disqualify the judge or former judge shall be served and filed within 60 days after (1) the Commission, pursuant to its rules, notifies the judge or former judge that its

determination has been filed or entered in its records, or (2) the determination becomes final as to the Commission pursuant to its rules, whichever event is later. Within 45 days after service of the petition, the Commission may serve and file an answer. Within 20 days after service of the answer, the judge or former judge may serve and file a reply. Each petition, answer, or reply submitted for filing shall be accompanied by proof of service, including service upon the Commission of three copies of any petition or reply filed by a judge or former judge. Extensions of time to file the petition, answer, or reply are disfavored and will be granted only upon a specific and affirmative showing of good cause. Good cause does not include ordinary press of business.

(b) The petition, answer, and reply shall address both the appropriateness of review and the merits of the Commission's determination, and they shall serve as briefs on the merits in the event review is granted. Except as provided in these rules, the form of the petition, answer, and reply shall, insofar as practicable, conform to rule 28(e), except that the lengths of the petition, answer, and reply shall conform to the limits set forth in rule 15(e). Each copy of the petition shall contain (1) a copy of the Commission's determination, (2) a copy of the notice of filing or entry of the determination in the records of the Commission, (3) a copy of any findings of fact and conclusions of law, and (4) a cover which shall bear the conspicuous notation "PETITION FOR REVIEW OF DETERMINATION BY COMMISSION ON JUDICIAL PERFORMANCE (RULE 935)" or words of like effect.

(c) Promptly upon the service and filing of the petition, the Commission shall transmit to the Clerk of the Supreme Court the original record, including a transcript of the testimony, briefs, and all original papers and exhibits on file in the proceeding.

(d) In the event review is granted, the rules adopted by the Judicial Council governing appeals from the superior court in civil cases, other than rule 26 relating to costs, shall apply to proceedings in the Supreme Court for review of a determination of the Commission except where express provision is made to the contrary or where such application would otherwise be clearly impracticable or inappropriate. [Adopted effective Dec. 1, 1996.]

Rule ~~921~~ 936. Proceedings involving public or private admonishment, censure,
removal or retirement of a judge of the Supreme Court

(a) Immediately upon filing of a ~~Commission recommendation~~ petition to review a determination by the Commission on Judicial Performance to retire, remove, censure, admonish or disqualify involving censure, removal or retirement of a judge of the Supreme Court, the Clerk of the Supreme Court shall select, by lot, seven court of appeal judges who shall elect one of their number presiding justice and perform the duties of the tribunal created under Article VI, Section 18(f) ~~18(e)~~ of the Constitution. This selection shall be made upon notice to the ~~e~~Commissioner, the judge, and the ~~his~~ counsel of record in a proceeding open to the public. No court of appeal judge who has served as a master or a member of the Commission in the particular proceeding or is otherwise disqualified may serve on the tribunal.

(b) * * *

[Amended and renumbered effective Dec. 1, 1996; adopted effective Nov. 13, 1976.]

Rule 977. ~~Citation of unpublished opinions prohibited; opinions ordered published by Supreme Court~~ Citation of opinions

(a) [Unpublished opinions] An opinion of a Court of Appeal or an appellate department of the superior court that is not certified for publication or ordered published shall not be cited or relied on by a court or a party in any other action or proceeding except as provided in subdivision (b). [Subdivision amended effective Jan. 1, 1997; adopted effective Jan. 1, 1974; previously amended effective Jan. 1, 1983.]

(b) * * *

(c) [Citation procedure] A copy of any opinion citable under subdivision (b) or of a cited opinion of any court that is available only in a computer-based source of decisional law shall be furnished to the court and all parties by attaching it to the document in which it is cited, or, if the citation is to be made orally, within a reasonable time in advance of citation. [Subdivision amended effective Jan. 1, 1997; adopted effective Jan. 1, 1974; previously amended effective Jan. 1, 1983.]

(d) * * *

Rule 982.7. Small claims forms

(a) [Mandatory forms] The following forms are ~~approved~~ adopted for mandatory use in all small claims actions under chapter 5A of title 1 of part 1 of the Code of Civil Procedure (~~commencing~~ beginning with section 116.110):

- (1) Plaintiff's Claim and Order to Defendant
- (2) Attorney-Client Fee Dispute (Attachment to Plaintiff's Claim)
- ~~(2)~~ (3) Defendant's Claim and Order to Plaintiff
- ~~(3)~~ (4) Notice of Entry of Judgment
- (5) Attorney-Client Fee Dispute (Attachment to Notice of Entry of Judgment)
- ~~(4)~~ (6) Judgment Debtor's Statement of Assets
- ~~(5)~~ (7) Notice of Motion to Vacate Judgment and Declaration
- ~~(6)~~ (8) Notice of Appeal
- ~~(7)~~ (9) Request to Pay Judgment to Court
- ~~(8)~~ (10) Information for the Plaintiff
- ~~(9)~~ (11) Additional Plaintiffs and Defendants [Amended effective Jan. 1, 1997; adopted effective Jan. 1, 1985; previously amended effective Jan. 1, 1986, and Jan. 1, 1990 and July 1, 1992.]

(b) [Optional forms] The following forms are approved for optional use in all small claims actions under chapter 5A of title 1 of part 1 of the Code of Civil Procedure (~~commencing~~ beginning with section 116.110):

- (1)-(5) * * *
- (6) Request to Correct or Vacate Judgment (approved effective January 1, 1994) [Amended effective Jan. 1, 1997; adopted effective Jan. 1, 1986; previously amended effective July 1, 1992.]

Rule 1024. Family and Juvenile Advisory Committee

(a)-(c) * * *

(d) [Membership] The committee shall consist of at least the following members appointed for three-year terms staggered so that one-third of the committee will change each year;

(1) ~~One~~ Two appellate court justices; [Subdivision amended effective Jan. 1, 1997; adopted effective July 1, 1993; previously amended effective Jan. 1, 1994, July 1, 1995 and Jan. 1, 1996.]

(2)-(14) * * *

Rule 1029. Governing Committee of the Center for Judicial Education and Research

(a) [Goal] In 1973, the Judicial Council of California and the California Judges Association created the Center for Judicial Education and Research (CJER). The purpose of this rule is to formalize the governance of CJER and its relationship to the Judicial Council and the Administrative Office of the Courts and to recognize the role of the Governing Committee of CJER in developing and maintaining a comprehensive and quality education program on behalf of the Judicial Council for the California judiciary. [Subdivision adopted effective Jan. 1, 1997.]

~~(a)~~ (b) [Function and duties] The Governing Committee of the Center for Judicial Education and Research ~~(CJER)~~ shall

(1) Establish education policies consistent with law, California Rules of Court, Standards of Judicial Administration, and education needs of ~~the judiciary~~ judicial officers and court staff that will promote the quality of justice by ensuring the availability of comprehensive education programs, publications, and other services for the ~~judiciary~~ judicial branch;

(2) Submit to the Judicial Council a report on CJER's activities for the prior year and annually present for adoption a ~~five-year~~ long-range plan that sets forth the development of education programs, publications, and other services based on the governing committee's assessment of the needs of ~~the judiciary~~ judicial officers and court staff; and ~~submit~~ approve for submission to the ~~Chair of the~~ Judicial Council a budget request for the next year based on the long-range plan in a manner consistent with the guidelines of the Administrative Office of the Courts (AOC);

- (3) Approve an annual education plan consistent with available funding and subdivisions (1) and (2), above, and procedures established by the AOC;
 - (4) Establish education priorities, programs, program content, curriculum, publications, and education materials consistent with the annual education plan and preserving the academic integrity of judicial branch education;
 - (5) Create and appoint judicial and administrative education planning committees and faculty to implement the annual education plan;
 - (6) Approve a general allocation of the annual budget for CJER, on recommendation of the Director of CJER, to meet the objectives of the annual plan and to meet unforeseen education opportunities or needs that may arise during the year;
 - (7) Evaluate and monitor the quality of and participation in all judicial and administrative education activities and emphasize the importance of participation by all ~~judges~~ judicial officers and court staff in education activities;
 - (8) Make periodic recommendations to the council concerning standards for judicial branch education; ~~and~~
 - (9) Support coordination and cooperation among CJER, the Council, and the Administrative Office of the Courts in sharing resources and assisting planning for training, education programs, publications, and other services by inviting Judicial Council representation at Institutes and other education programs to provide and solicit information on issues of concern to the judiciary; and-
 - (10) Provide recommendations to the Chair of the Judicial Council on the selection of the chair and vice-chair of the governing committee. [Amended effective Jan. 1, 1997.]
- ~~(b)~~ (c) [Membership] The governing committee shall consist of the following members:
- (1) Eight sitting judicial officers, including at least one appellate court justice;
 - (2) The President of the California Judges Association as an advisory member;
 - (3) Three judicial administrators;
 - ~~(3)~~ (4) The Administrative Director of the Courts as an advisory member; and

~~(4)~~ (5) Other advisory members as may be appointed by the Chair of the Judicial Council to represent, for example, expertise in judicial education, court management, and other relevant fields. [Amended effective Jan. 1, 1997.]

~~(e)~~ (d) [Terms and appointment of judicial officer members] Judicial officer members of the governing committee shall be appointed by the Chair of the Judicial Council for two-year staggered terms and may serve for two successive terms. The President of the California Judges Association shall submit three nominees for each of four judicial officer positions on the governing committee. If the Chair of the Judicial Council so desires, he or she may request additional nominations. Nominations for the remaining four judicial officer positions shall be solicited through appointment procedures set forth in rule 1020(e). [Amended effective Jan. 1, 1997; previously amended effective July 1, 1995.]

(e) [Terms and appointments of judicial administrator members] Judicial administrator members of the governing committee shall be appointed by the Chair of the Judicial Council for two-year staggered terms. Nominations for the judicial administrator positions shall be solicited through appointment procedures set forth in rule 1020(e). [Subdivision adopted effective Jan. 1, 1997.]

~~(d)~~ (f) [Adoption of bylaws] The governing committee shall adopt bylaws for meetings, quorums, ~~election of a~~ duties of the chair and vice-chair, ~~the terms of office for the chair and vice chair~~ creation of standing and ad hoc subcommittees, and other governing committee business. All bylaws shall be submitted to the council for approval. [Amended effective Jan. 1, 1997.]

~~(e)~~ (g) [Director and staff of the Center for Judicial Education and Research]

(1) [Position] ~~The Director and other employees of CJER shall be subject to the rules and policies governing other employees of the Administrative Office of the Courts.~~

The Director of CJER is the Director of the education division of the Administrative Office of the Courts under the supervision of the Administrative Director, and subject to the rules and policies governing employees of the Administrative Office of the Courts. CJER staff are employees of the Administrative Office of the Courts.

(2) [Duties] The Director of CJER ~~shall be~~ is responsible for the administration of the judicial and administrative education programs of CJER. The Director of CJER shall serve as staff to the governing committee, ~~and~~ shall be responsible for implementing the policies, programs, curriculum, and projects of the governing committee, ~~and shall be accountable for the expenditure of funds as allocated by the governing committee and shall perform such other duties as assigned by the Administrative Director.~~

(3) [Appointment] Pursuant to a process agreed upon by the governing committee and the Administrative Director of the Courts in consultation with the Executive Board of the California Judges Association, the Director of CJER shall be selected and appointed by the governing committee with the approval of the Administrative Director of the Courts.

(4) [Evaluation] The Administrative Director of the Courts shall consult with and solicit information from the governing committee regarding the performance of the Director of CJER as a part of the annual evaluation process. [Amended effective Jan. 1, 1997; previously amended effective July 1, 1995.]

~~(f)~~ (h) [Reporting] The Director of CJER shall annually submit a report to the Administrative Director of the Courts and the governing committee on the administrative and programmatic activities of the past year and identify priorities for the upcoming year.

~~(g)~~ [Funding]

~~(1) (Budget report) Annually, the governing committee shall approve a budget request to be submitted to the Chair of the Judicial Council for legislative funding for necessary judicial education programs. This request shall be consistent with the guidelines released annually by the Budget and Planning Office of the Administrative Office of the Courts. The budget request shall be based on the five-year education plan approved by the council.~~

~~(2) (Allocations) The governing committee shall establish an annual education plan based on the actual funding allocation received for judicial education. The governing committee shall provide the annual education plan and its budget allocation to the council consistent with the procedures established by the Budget and Planning Office of the Administrative Office of the Courts.~~

~~(3)~~ (i) [Budget adjustments] Before making any adjustments to the budget for CJER, the Administrative Director of the Courts shall consult with the Director of CJER ~~and the Chair of the Governing Committee and shall provide written notice to the Director of CJER and the governing committee at least 14 days before making any adjustments to the budget for CJER.~~ [Amended effective Jan. 1, 1997.]

~~(4)~~ (j) [Gifts] On request of the governing committee under rule 989.7, the Chair of the Judicial Council, or his or her designee, may on behalf of the Judicial Council accept any gift or grant for any general or special purpose of CJER, including a gift or grant from the Foundation for Judicial Education. [Amended effective Jan. 1, 1997.]

(k) [Administrative Director of the Courts] In addition to performing the other duties delineated above, the Administrative Director of the Courts shall, through the Director of CJER, oversee personnel administration and fiscal matters of CJER; shall meet regularly with the governing committee; shall notify and, when appropriate, consult with the governing committee concerning CJER personnel matters; and shall act as liaison between the governing committee, the Chair of the Judicial Council, and the council. The governing committee may provide information to the Chair of the Judicial Council on the performance of the Administrative Director of the Courts, ~~and to the Administrative Director of the Courts on the performance of the Director of CJER.~~ [Amended effective Jan. 1, 1997.]

Rule 1410. Persons present

(a) * * *

(b) [Persons present (§§ 280, 332, 335, 347, 349, 353, 656, 658, 677, 679, 681, 700, 25 U.S.C. §§ 1911, 1931-1934)] The following persons are entitled to be present:

(1) The child;

(2) All parents, de facto parents, Indian custodians, and guardians of the child or, if no parent or guardian resides within the state or, if their places of residence are not known,

(A) any adult relatives residing within the county or, if none,

(B) any adult relatives residing nearest the court;

(3) Counsel representing the child or the parent, de facto parent, guardian or adult relative, Indian custodian or the tribe of an Indian child;

(4) The probation officer or social worker;

(5) The prosecuting attorney, as provided in subdivisions (c) and (d);

(6) Any court-appointed special advocate;

(7) A representative of the Indian child's tribe;

(8) The court clerk;

(9) The official court reporter, as provided in rule 1411;

(10) At the court's discretion, a bailiff. [Subdivision amended effective Jan. 1, 1997, previously amended effective Jan. 1, 1995.]

(c)-(e) * * *

Rule 1412. General provisions--proceedings

(a)-(h) * * *

(i) [Tribal representatives (25 U.S.C. §§ 1911, 1931-1934)] The tribe of an Indian child is entitled to intervene as a party at any stage of a dependency proceeding concerning the Indian child.

(1) The tribe may appear by counsel or by a representative of the tribe designated by the tribe to intervene on behalf of the tribe. When the tribe appears as a party by a representative of the tribe, the name of the representative and a statement of authorization for that individual or agency to appear as the tribe, shall be submitted to the court in the form of a tribal resolution or other document evidencing an official act of the tribe.

(2) If the tribe of the Indian child does not intervene as a party, the court may permit an individual affiliated with the tribe, or if requested by the tribe a representative of a program operated by another tribe or Indian organization to:

(A) be present at the hearing;

(B) address the court;

(C) receive notice of hearings;

(D) examine all court documents relating to the dependency case;

(E) submit written reports and recommendations to the court;

(F) perform other duties and responsibilities as requested or approved by the court. [Subdivision adopted effective Jan. 1, 1997.]

~~(j)~~ (j) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(k)~~ (k) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(l)~~ (l) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(m)~~ (m) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(n)~~ (n) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(o)~~ (o) * * * [Subdivision relettered effective Jan. 1, 1997.]

Rule 1439. Indian Child Welfare Act (25 U.S.C. § 1901 et seq.)

(a) * * *

(b) [Applicability of rule; 25 U.S.C. §§ 1911, 1912] This rule applies to all proceedings under section 300 et seq., including detention hearings, jurisdiction hearings, disposition hearings, reviews, hearing under section 366.26, and subsequent hearings affecting the status of the Indian child. [Amended effective Jan. 1, 1997.]

(c) [Jurisdiction; 25 U.S.C. § ~~1994~~ 1911] * * * [Amended effective Jan. 1, 1997.]

(d) * * *

(e) [Proceedings; 25 U.S.C. § 1912] If section 1.1 of the Juvenile Dependency Petition (JV-100) is checked, or if, upon inquiry, or based on other information, the court has reason to believe the child may be an Indian child, the court shall proceed as if the child is an Indian child and shall proceed with all dependency hearings, observing the Welfare and Institutions Code timelines while complying with the Act and this rule. A determination by the identified tribe or the Bureau of Indian Affairs (BIA) that the child is not an Indian child, shall be definitive. [Subdivision adopted effective Jan. 1, 1997.]

~~(f)~~ (f) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(g)~~ (g) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(h)~~ (h) * * * [Subdivision relettered effective Jan. 1, 1997.]

(i) [Required procedures, findings and orders for foster care placement and guardianships 25 U.S.C § 1912] The court may not order foster care placement of an

Indian child, or establish a guardianship of an Indian child unless the court finds by clear and convincing evidence that continued custody with the parent or Indian custodian is likely to cause the Indian child serious emotional or physical damage.

(1) Testimony by a qualified expert witness is required.

(2) Stipulation by the parent or Indian custodian or failure to object may waive the requirement of producing evidence of the likelihood of serious damage only if the court is satisfied that the party has been fully advised of the requirements of the Act, and has knowingly, intelligently, and voluntarily waived them.

(3) Failure to meet non-Indian family and community child-rearing standards, or the existence of other behavior or conditions that meet the removal standards of section 361 will not support an order for placement absent the finding that continued custody with the parent or Indian custodian is likely to cause serious emotional or physical damage.

(4) In addition to the findings required under section 361, in order to place an Indian child out of the custody of a parent or Indian custodian, the court must find that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, and that these efforts were unsuccessful. Stipulation by the parent or Indian custodian or failure to object may waive the requirement of this finding only if the court is satisfied that the party has been fully advised of the requirements of the Act, and has knowingly, intelligently, and voluntarily waived them.

(A) The court shall consider all available information regarding the prevailing social and cultural conditions of the Indian child's tribe.

(B) Efforts to provide services shall include attempts to utilize the available resources of extended family members, the tribe, Indian social service agencies, and individual Indian caregivers. [Subdivision adopted effective Jan. 1, 1997.]

~~(h)~~ (j) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(i)~~ (k) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(j)~~ (l) [Reasonable efforts; 25 U.S.C. § 1912] In addition to the findings required under section 361, in order to place an Indian child out of the custody of a parent or Indian custodian, or to issue orders under section 366.26, the court must find that active

efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, and that these efforts were unsuccessful.

(1) The court shall consider all available information regarding the prevailing social and cultural conditions of the Indian child's tribe.

(2) Efforts to provide services shall include attempts to utilize the available resources of extended family members, the tribe, Indian social service agencies, and individual Indian caregivers. [Amended effective Jan. 1, 1997.]

~~(k)~~ (m) [Termination of parental rights; 25 U.S.C. § 1912] ~~Under the Act~~ The court may not ~~order termination of~~ terminate parental rights to an Indian child unless there is proof beyond a reasonable doubt that continued custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(1) The evidence must be supported by the testimony of a qualified expert witness.

(2) Stipulation by the parent or Indian custodian or failure to object may waive the requirement of producing evidence of the likelihood of serious damage only if the court is satisfied that the party has been fully advised of the requirements of the Act, and has knowingly, intelligently and voluntarily waived them.

(3) Consent to a voluntary termination of parental rights, relinquishment of parental rights, or consent to adoption shall be executed in writing and recorded before a judicial officer of competent jurisdiction. The court must certify that the terms and consequences of the consent were explained in detail, in the language of the parent or Indian custodian, and fully understood by the parent or Indian custodian. If confidentiality is requested or appropriate, the consent may be executed in chambers.

(4) In order to terminate parental rights to an Indian child the court must find that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family, and that these efforts were unsuccessful. Stipulation by the parent or Indian custodian or failure to object may waive the requirement of this finding only if the court is satisfied that the party has been fully advised of the requirements of the Act, and has knowingly, intelligently and voluntarily waived them. [Amended effective Jan. 1, 1997.]

~~(h)~~ (n) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(m)~~ (o) * * * [Subdivision relettered effective Jan. 1, 1997.]

~~(n)~~ (p) * * * [Subdivision relettered effective Jan. 1, 1997.]

STANDARDS OF JUDICIAL ADMINISTRATION

Section 8.5. Examination of prospective jurors in criminal cases

(a) [In general] * * *

(b) [Examination of jurors] The trial judge's examination of prospective jurors in criminal cases should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case:

(1)-(5) * * *

(6) The defendant is charged by an (information) (indictment) filed by the district attorney with having committed the crime of _____, in violation of section ____ of the ____ Code, it being alleged that on or about ____ in the County of _____, the defendant did (describe the offense). To (this charge) (these charges) the defendant has pleaded not guilty, and it will be the question of ~~(his) (her) whether the defendant's guilt or innocence of (this charge) (these charges) has been proved beyond a reasonable doubt~~ that you will be asked to decide if you are selected as a trial juror in this case. Having heard the charge(s) ~~which~~ that (has) (have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him) (her)?

(7)-(11) * * *

(12) The fact that the defendant is in court for trial, or that charges have been made against (him) (her), is no evidence whatever of (his) (her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining ~~the guilt or innocence of the defendant~~ whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has been arraigned and has entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. Until and unless this is done, the presumption of innocence prevails. [Amended effective Jan. 1, 1997; adopted effective July 1, 1974; previously amended effective Jan. 1, 1988, Jan. 1, 1990, and June 6, 1990.]

(13)-(23) * * *

~~(d)~~ (c) * * * [Subdivision relettered effective Jan. 1, 1997.]